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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/591,381 | 06/09/2000 | Raman K. Rao | Rao-012 | 2673 |

7590 02/25/2004

Stephen E Baldwin
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San Carlos, CA 94070

| EXAMINER |
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MEHRPOUR, NAGHMEH

| ART UNIT | PAPER NUMBER |
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2686

DATE MAILED: 02/25/2004

14

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/581,381

Applicant(s)

RAO

Examiner

Naghmeh Mehrpour

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 02 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) 13-30 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Election/Restrictions

1. Newly submitted claims 13-20, are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Claims 1-12, are directed to a method for wireless communication control of the selection of different protocols for communication between a wireless device and a central server. While claims 13-30, are directed to a mobile device communication system having a mobile device having means for dynamically configuring the mobile device for one or more functions including communication, computation, command, sense and control. The invention of claims 1-12, do not require the details of the invention of claims 13-30.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 13-30 have withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-2, 5-6, 12**, are rejected under 35 U.S.C. 103(a) as being unpatentable over

Levac (US Patent Number 6,363,249).

Regarding **Claims 1, 5, 12**, Levac teaches a communication and control system including a device comprising 10:

central server 14 means for storing (col 6 lines 52-55) communication protocols and control protocols 54 (col 3 lines 40-59), means for communicating the communication protocols 58 and selectively communicating the control protocols between the wireless device 18d, 18c, and the central server 14 means (col 5 lines 13-25 lines 40-50), communication protocol;

means for configuring the system for communication (col 5 lines 25-39),

a first control protocol means for configuring the system as one of a selection of intelligent appliance controllers (col 6 lines 21-31), and

a second control protocol means for alternately configuring the system as one of a selection of Internet terminals (col 3 lines 1-9). Levac fails to teach a wireless communication and control system including a wireless device. However a wireless communication device that includes a central server is well known in the art. Therefore, it would have been obvious to ordinary skill in the art at the time the invention was made to use above teaching to Levac, in order to enhance the message information delivery efficiency of the a wireless message communication system while allowing flexible handling of varying data configurations and formats for subscriber units.

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Regarding **claims 2, 6, Levac** teaches a wireless communication system wherein the wireless device comprises a hand-held computing device (see figure 5 numeral 18c).

4. **Claims 3-4, 7-11**, are rejected under 35 U.S.C. 103(a) as being unpatentable over Levac (US Patent Number 6,363,249) in view of Houde et al. (US Patent 5,905,958).

Regarding **claims 3-4, 7-8, 11**, Levac fails to teach wherein the wireless device 10 comprises a wireless computing device is cellular phone. However Houde teaches a hand-held computing device that is cellular phone (See figure 1, numeral 30 col 3 lines 10-19). Therefore, it would have been obvious to ordinary skill in the art at the time the invention was made to use the above teaching of Houde with Levac, in order to enhance wireless communication system for the purpose of providing more convenient cell phone for users.

Regarding **claims 9-10**, Levac fails to teach that a system where the mobile device is an IP based telephone, and an intelligent appliance. However Houde teaches a system where the mobile device is an IP 30 based telephone (see figure 3, col 4 lines 45-52), and intelligent appliance (col 3 lines 24-33, col 6 lines 29-39). Therefore, it would have been obvious to ordinary skill in the art at the time the invention was made to modify Levac with the above teaching, in order to achieve an efficiency, reduce the cost and provide more feasible wireless system with allowing intelligent wireless telephone device communicates with central server.

Response to Arguments

5. Applicant's arguments filed s12/2/03 have been fully considered but they are not persuasive.

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6. In response to applicant's argument that Levac fails to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., transforming the means by which the device itself operates, or the means by which the fax machine itself operates for delivery on different devices protocols by which the device itself operates with one or more protocols) are not recited in the rejected claims 1-12. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

7. In response to applicant's argument that ~~the~~ Houde fails to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., means for transforming the communication device, by software means utilizing the processing power of the device, or the ability to dynamically transform the intelligent mobile station for communication using one or more different protocols) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In view of the above rejection using Levac to Houde still meets application invention as claimed (claims 1-12). These rejections are maintained as rejected above.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the

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mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any responses to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9314, (for formal communications indented for entry)

Or:

(703) 308-6306, (for informal or draft communications, please label

“PROPOSED” or “DRAFT”)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, Va., sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Melody Mehrpour whose telephone number is (703) 308-7159. The examiner can normally be reached on Monday through Thursday (first week of bi-week) and Monday through Friday (second week of bi-week) from 6:30 a.m. to 5:00 p.m.

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If attempt to reach the examiner are unsuccessful the examiner's supervisor, Marsha Banks-Harold be reached (703)305-4379.

NM

Feb 23 2004


CHARLES APPIAH
PRIMARY EXAMINER